

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MARC DEJEAN,

Plaintiff,

v.

9:14-CV-0445 (BKS/ATB)

| MALCOLM ROTH, et al.,

Defendants.

Appearances:

Marc DeJean

Roosevelt, NY

Plaintiff, *pro se*

Maria E. Lisi-Murray, Esq.

Hon. Eric T. Schneiderman

Office of New York State Attorney General

The Capitol

Albany, NY 14202

Attorney for Defendants

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Marc DeJean, a former New York State inmate, commenced this civil rights action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at Greene Correctional Facility. Dkt. Nos. 1, 51. In his most recent complaint, the Amended Complaint, Plaintiff alleges that the Defendants denied him constitutionally adequate medical care in violation of the Eighth Amendment. Dkt. No. 51. On March 11, 2016, Defendants filed a motion for summary judgment under Fed. R. Civ. P. 56. Dkt. No. 94. Plaintiff filed a response in opposition to the motion on April 20, 2016. Dkt. No. 104.

This matter was referred to United States Magistrate Judge Andrew T. Baxter who, on July 26, 2016, issued a Report-Recommendation recommending that Defendants' motion for summary judgment be granted and that the complaint be dismissed in its entirety. Dkt. No. 109. Magistrate Judge Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. Dkt. No. 109, p. 26. A copy of the Report-Recommendation was mailed to Plaintiff via certified mail and regular mail on July 26, 2016, and no objections to the Report-Recommendation have been filed. Dkt. No. 109. On September 6, 2016, the certified mailing was returned to the Court with a notice that it had been "unclaimed." Dkt. No. 111.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Report-Recommendation is adopted in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 109) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion for summary judgment (Dkt. No. 94) is **GRANTED**; and it is further

ORDERED that the Plaintiff's complaint (Dkt. No. 51) is **DISMISSED** in its entirety; and it is further

ORDERED that the Clerk of the Court is directed to close this case; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: October 24, 2016



Brenda K. Sannes
Brenda K. Sannes
U.S. District Judge